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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,393	02/10/2004	Hillery C. Hunter	YOR920030591US1	8889

26291 7590 05/14/2007  
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EXAMINER
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ART UNIT	PAPER NUMBER
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2114

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/775,393	HUNTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dieu-Minh Le	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28-34 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s), including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/21/07</u>  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This Office Action is in response to the amendment filed 03/19/07.
2. Claims 1-34 are again presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Double Patenting Rejections**

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims

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so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-19 are again rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of prior U.S. Patent No. 6,898,261. This is a double patenting rejection. The Applicant's attention is directed to the fact that claims 1-19 of the present invention are similar to claims 1-20 of US Patent 6,898,261.

For example:

[Current Application].

1. Method for monitoring event occurrences using a register having at least one capture bit with a plurality of storage bits, at least one logic operator, and a counter, said method comprising:

- a) computing, at said at least one logic operator, a cumulative event signal from a plurality of input event signals indicative of respective occurrences of monitored events by the register;
- b) capturing said cumulative event signal into the at least one capture bit of the register, wherein said cumulative event signal is received at a first frequency; and
- c) shifting said stored cumulative event signal in said at least one capture bit to one of the plurality of storage bits in accordance with a shift rate signal, wherein said shift rate signal is received at a second frequency.

2. The method of claim 1, further comprising:

- d) determining whether shifted information from the register is to effect counting by the counter.

3. The method of claim 2, wherein said second frequency is dependent upon a selectable time interval, and wherein said first frequency is different than said second frequency.

4. The method of claim 2, further comprising:

- e) causing the counter to count if said shifted information from the register is indicative of an occurrence of a monitored event.

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5. The method of claim 2, wherein said shifted information is received from the at least one capture bit of the register.

**U.S. Patent 6,898,261:**

1. Method for monitoring event occurrences using a register having at least one capture bit with a plurality of storage bits and a counter, said method comprising:

- a) receiving information from an event signal indicative of an occurrence of a monitored event by the register, wherein said event signal is received at a first frequency;
- b) capturing said information into the at least one capture bit of the register; and
- c) shifting said stored information in said at least one capture bit to one of the plurality of storage bits in accordance with a shift rate signal, wherein said shift rate signal is received at a second frequency.

2. The method of claim 1, further comprising:

- d) determining whether shifted information from the register is to effect counting by the counter.

3. The method of claim 2, wherein said second frequency is dependent upon a selectable time interval, and wherein said first frequency is different than said second frequency.

4. The method of claim 2, further comprising:

- e) causing the counter to count if said shifted information from the register is indicative of an occurrence of a monitored event.

5. The method of claim 2, wherein said shifted information is received from the at least one capture bit of the register.

**Therefore, Applicant is required to cancel or amend claims 1-19 from this application.**

6. Claims 20-26, and 28-34 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Singh et al. (U.S. 6,026,354 hereafter referred to as Singh) in view of Wiedenman et al. (U.S. 7,051,131 hereafter referred to as Wiedenman).

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This rejection is being applied for the same reasons set forth in the previous Office Action mailed 12/19/2006.

As per claims 20-26, and 28-34 see the previous office action for the detailed teaching of Singh and Wiedenman as well as the reasons and motivation for combined.

Applicant asserts that Singh and Wiedenman, alone or in any permissible combination failed to teach or suggest the following:

- a. a method and digest collector for monitoring event occurrences from a plurality of functional processor units at a centralized location by storing data indicative of cumulative events in a register based on a tag identifier affixed to said data;

Examiner respectfully transverses Applicant's argument as follows:

- a. First, In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the feature upon which Applicant relies (i.e., storing data indicative of cumulative events...;) is not recited in the rejected claims 20 and 29. Although the claim is interpreted in light of the specification, limitations from the specification is not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Second, Examiner would like to bring Applicant's attention to Singh's invention. Singh teaches:

- A method for monitoring event occurrences from a plurality of functional processor units at a centralized location via a dedicated bus coupled between said plurality of functional processor units and said centralized location [fig. 1, col. 1, lines 54-64; col. 3, lines 1-5]

comprising:

- receiving, at said centralized location, data indicative of cumulative events occurring at one of said functional processor units [col. 2, lines 17-27; col. 3, lines 6-25];
- storing said data in a first temporary memory [fig. 1, col. 1, lines 54-64; col. 3, lines 6-25];
- storing said data in a register [fig. 1, col. 2, lines 5-17; col. 4, lines 18-33].

In addition, Wiedenman explicitly teaches:

- A method and apparatus for monitoring bus activity in a multi-processor environment [abstract, fig. 1-3, col. 13, lines 65 through col. 14, line 15] comprising:

- a register base control used for data configuration, monitoring events via component identifier interface [**col. 8, lines 56 through col. 9, lines 12 and col. 14, lines 27-42**].

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Third, as indicated in previous office action that, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to first realizing Singh's data memory reading/writing and mapping into memory space via control register, event log, and device type identification as being the tag identifier affixed to data as claimed by Applicant. This is because Singh explicitly performed data configuring, data transmission, data/event monitoring in supporting the data processing and/or configuring including failure detection and recovery via data/error monitoring, detecting, and correcting processes. By utilizing these capabilities, the data between the data storage device and information data communication system (i.e., host/processor unit/servers/gateways/switches environment) can be directed or redirected promptly and functioned properly via its event monitoring operation; second, by applying the register base control used for data configuration, monitoring events via component identifier interface as taught by Wiedenman in conjunction with the method and system for monitoring component within a computer system via dedicated bus and processor as taught by Singh, the device monitoring networking system including its register based on data configuration (i.e., data identifier) can enhance its operation performance, more



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specifically to ensuring the data monitored and routed via dedicated bus in the storage area network area.

This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to improve the computer system operation availability and network/system performance therein with a mechanism to enhance the data monitoring, data connectivity, data debugging, data comparison, and data throughput which eventually will increase its performance, such as data throughput between internal and external devices.

Therefore, it is very clear and it would have been obvious to an ordinary skill in the art to realize both Singh and Wiedenman do teach Applicant's invention.

**Allowable Subject Matter**

7. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 03/19/2007 have been fully considered but they are not persuasive.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (571) 272-3660. The examiner can normally be reached on Monday - Thursday from 8:30 AM to 6:00 PM.

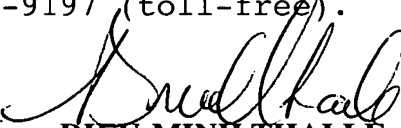
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571)272-3644.

The Tech Center 2100 phone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DIEU-MINH THAI LE**  
**PRIMARY EXAMINER**  
**ART UNIT 2114**

DML  
04/27/07